

REMARKS

This responds to the Office Action mailed on September 28, 2005.

Claims 1, 13 and 14 are amended, and claims 3-5 and 16-20 are canceled; as a result, claims 1-2 and 6-15 are now pending in this application.

Objection to the Drawings

Claims referencing the battery attached to the mudflap have been cancelled. However, the applicant reserves the right to bodily incorporate the disclosed subject matter into the specification in a continuation filing. Accordingly, the objection to the Drawings is believed rendered moot.

Objections to the Specification

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. A new paragraph after paragraph 43 has been added to bodily incorporate the subject matter originally filed and disclosed in the form of claims 7, 8, 9, 13 and 14 into the specification. Accordingly, the objection raised in paragraph 2 of the office action is addressed. The specification was also objected to due to informalities. The specification has been amended to correct the spelling error pointed out by the examiner, as well as other typographical errors.

Objection to the Claims

Claim 13 was objected to due to informalities. Applicant has amended claim 13 herein as suggested by the Examiner.

§112 Rejection of the Claims

Claim 5 has been cancelled, addressing the objection raised in paragraph 6.

§102 Rejection of the Claims

Claims 1-3, 5, 6, 10-12, 15-17, 19, and 20 were rejected under 35 U.S.C. § 102(b) for anticipation by Fernandez (U.S. 5,434,013).

Claim 1 has been amended to distinguish Fernandez. In particular, claim 1 now recites:

1. (Amended) A mudflap, comprising a main body, and EL lighting attached to the main body, wherein the mudflap is sized for a vehicle having at least two rear axles and further wherein the EL lighting is in the form of road safety indicia, the mudflap further adapted to be attached from a first end of the mudflap to the vehicle and hang from the vehicle behind at least one tire of the vehicle, wherein the one tire is a rear-most tire on the vehicle, and further wherein the road safety indicia is recognized by the general public.

The amendments to claim 1 clearly distinguish it over Fernandez in regards to the Section 102(b) rejection. For example, Fernandez does not show use of EL on a mudflap adapted for a vehicle with at least two rear axles, or a mudflap with a safety indicia on it. While Fernandez suggests the use of EL lighting on a automobile mudflap, Fernandez did not appreciate nor discuss the advantageous operation of EL lighting, due to its unique properties, in inclement weather conditions, such as rain, snow or fog, over conventional lighting, such as incandescent lighting. Without this appreciation, there would be no motivation to use EL lighting on the mudflaps of vehicles with two rear axles, most typically heavy duty vehicles such as trucks, over any other type of lighting. Furthermore, Fernandez teaches as an object of his invention a "lighting means that is not excessively bright" (col. 2, lines 6-9) and does not distract other drivers. As such, Fernandez teaches away from invention which features greater visibility to improve safety.

§103 Rejection of the Claims

Claims 4, 7-9, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Iseler et al. (DE 10108713 A1). Claim 4 has been cancelled. Claims 7-9 are believed patentable for the same reasons noted above with respect to claim 1, in that even if Iseler is combined with Fernandez, neither reference provides any motivation to use EL lighting on a mudflap as specified in claim 1, as there is no appreciation of the advantageous safety features that EL lighting offers due to its lighting properties. Accordingly, there is no motivation to combine the references, and even if they were combined, there is no teaching to form a road safety indicia.

Claims 13 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Price (U.S. 4,927,177). Again, Price also fails to supply the motivation to

place EL lighting on mudflaps, as it too fails to teach the benefits that may be obtained over conventional incandescent lighting. Accordingly, there is no motivation to combine the teachings of Fernandez with Price for the purpose of producing a mudflap useful on vehicles with two or more rear axles, where the rear mudflaps are typically highly visible to traffic approaching from the rear, and also where a rear end collision may be particularly dangerous to an approaching automobile. On the contrary, Fernandez seems to be primarily appreciative of the decorative aspects of EL lighting, and appears to show no real appreciation that its lighting properties are any different than incandescent lighting insofar as safety are concerned.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6976 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

AARON GOLLE ET AL.

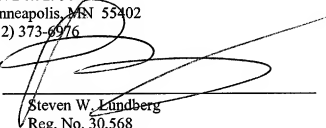
By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6976

Date

2/28/2006

By


Steven W. Lundberg
Reg. No. 30,568

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28 day of February, 2006.

Name

John P. Fowler-Wendell

Signature

John P. Fowler-Wendell